

MINUTES

LAKE COUNTY ZONING BOARD

JUNE 7, 2006

The Lake County Zoning Board met on Wednesday, June 7, 2006 in the Commission Chambers on the second floor of the Round Administration Building to consider petitions for rezonings, Conditional Use Permits, and Mining Site Plans.

The recommendations of the Lake County Zoning Board will be submitted to the Board of County Commissioners at a public hearing to be held on Tuesday, June 20, 2006 at 9 a.m. in the Commission Chambers on the second floor of the Round Administration Building, Tavares, Florida.

Members Present:

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|-------------------------------|-----------------------------|
| Timothy Morris, Vice Chairman | District 1 |
| Scott Blankenship | District 2 |
| James Gardner, Secretary | District 3 |
| Robert H. Herndon | District 4 |
| Donald Miller | Member-at-Large |
| Larry Metz | School Board Representative |

Members Not Present:

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| Paul Bryan, Chairman | District 5 |
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Staff Present:

Carol Stricklin, AICP, Director, Department of Growth Management
R. Wayne Bennett, AICP, Planning Director, Planning and Development Services Division
Comprehensive Planning Division
Brian Sheahan, Chief Planner, Planning and Development Services Division
Rick Hartenstein, Senior Planner, Planning and Development Services Division
Stacy Allen, Senior Planner, Planning and Development Services Division
Jennifer DuBois, Senior Planner, Planning and Development Services Division
Mary Harris, Public Hearing Coordinator, Planning and Development Services Division
Sherie Ross, Public Hearing Coordinator, Planning and Development Services Division
Ross Pluta, Engineer III, Engineering Division
Melanie Marsh, Deputy County Attorney
LeChea Parson, Assistant County Attorney

Vice Chairman Morris called the meeting to order at 9:05 a.m. He led in the Pledge of Allegiance, and James Gardner gave the invocation. Vice Chairman Morris noted that a quorum was present. He confirmed the Proof of Publication shown on the monitor. Carol Stricklin, Director, Department of Growth Management, introduced Wayne Bennett, Planning Director, and Brian Sheahan, Chief Planner. She added that beginning with the new budget year, Current Planning and Comprehensive Planning sections will be combined into one division, Planning and Development Services Division.

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Minutes

Sherie Ross, Public Hearing Coordinator, stated that last month Larry Metz had asked her to check the tapes from the April 5, 2006 Zoning Board public hearing. She read the following changes into the record:

On Page 11, the sixth full paragraph, "accountability" should be changed to "'compatibility." The abbreviation for State Requirement for Educational Facilities should be "SRF," not "SRAF."

On Page 20, paragraph 5, name should be "Fix," not "Fish."

On Page 27, paragraph 2, line 1, phrase should be changed from "speaking not as a School Board member" to "speaking not for the School Board but as one member only."

MOTION by Scott Blankenship, SECONDED by Donald Miller to approve the April 5, 2006 Lake County Zoning Board Public Hearing minutes, as amended.

FOR: Morris, Blankenship, Gardner, Herndon, Miller, Metz

AGAINST: None

NOT PRESENT: Bryan

MOTION CARRIED: 6-0

MOTION by Donald Miller, SECONDED by Robert Herndon to approve the May 3, 2006 Lake County Zoning Board Public Hearing minutes, as submitted.

FOR: Morris, Blankenship, Gardner, Herndon, Miller, Metz

AGAINST: None

NOT PRESENT: Bryan

MOTION CARRIED: 6-0

Discussion of Consent Agenda

Vice Chairman Morris explained the public hearing procedure including the consent agenda.

Rick Hartenstein, Senior Planner, stated that speaker cards have been received for Agenda No. 8, CUP#06/6/4-3, and Agenda No. 11, CUP#06/6/6-2, so these cases will be moved to the regular agenda.

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| CASE NO.: | CUP#06/6/5-5 | AGENDA NO.: | 17 |
| OWNER/APPLICANT: | John W. H. Schmale, Trustee | | |
| VOLUNTARY REVOCATION: | CUP#147(A)-2 | AGENDA NO.: | 18 |
| CURRENT OWNER: | Jeff D. Smalt | | |
| PREVIOUS OWNER: | CUP issued to Amy McClain | | |

There was no one in the audience nor on the Board who had an objection to the above consent agenda or wished to speak on any of these cases.

MOTION by Robert Herndon, SECONDED by Donald Miller to recommend approval of the rezoning and revocation requests in the above consent agenda.

FOR: Morris, Blankenship, Gardner, Herndon, Miller, Metz

AGAINST: None

NOT PRESENT: Bryan

MOTION CARRIED: 6-0

CASE NO.: PH#53-06-5

AGENDA NO.: 1

OWNERS: Linda Austin and Gerald Braley

APPLICANT: Hugh Harling, Jr., P.E.

Rick Hartenstein, Senior Planner, said that as stated in the letter in the backup, the applicant is requesting a 60-day continuance to work out utility and open space issues with the City of Umatilla at a workshop and a later City Council meeting in July.

There was no one in the audience who was opposed to this continuance request.

MOTION by James Gardner, SECONDED by Robert Herndon to continue PH#53-06-5 until the August 2, 2006 Lake County Zoning Board public hearing.

FOR: Morris, Blankenship, Gardner, Herndon, Miller, Metz

AGAINST: None

NOT PRESENT: Bryan

MOTION CARRIED: 6-0

CASE NO.: PH#26-06-5

AGENDA NO.: 4

OWNERS: James W. Sims, Jr. and Louise F. Sims, Trustees

APPLICANT: Mark A. Maciel

Rick Hartenstein, Senior Planner, stated that the applicant has requested a 60-day continuance in order to address some issues with the Lake County Water Authority.

There was no one in the audience who was opposed to this continuance request.

MOTION by James Gardner, SECONDED by Scott Blankenship to continue PH#26-06-5 until the August 2, 2006 Lake County Zoning Board public hearing.

FOR: Morris, Blankenship, Gardner, Herndon, Miller, Metz

AGAINST: None

NOT PRESENT: Bryan

MOTION CARRIED: 6-0

CASE NO.: PH#50-06-2

AGENDA NO. 10

OWNER: Clonts Groves, Inc.

APPLICANT: Cecelia Bonifay, Esq., Akerman Senterfitt

Rick Hartenstein, Senior Planner, stated that a 60-day continuance has been requested so the consultant can provide supplemental information to the County staff relating to this application.

There was no one in the audience who wished to speak on this case.

MOTION by James Gardner, SECONDED by Donald Miller to continue PH#50-06-2 until the August 2, 2006 Lake County Zoning Board public hearing.

FOR: Morris, Blankenship, Gardner, Herndon, Miller, Metz

AGAINST: None

NOT PRESENT: Bryan

MOTION CARRIED: 6-0

CASE NO.: MSP#05/11/1-2

AGENDA NO.: 12

OWNER: Rinker Materials Corporation
APPLICANT: Steven J. Richey, P.A.

Rick Hartenstein, Senior Planner, stated that the applicant requested a 90-day continuance in order to provide additional information to staff.

There was no one in the audience who wished to speak on this case.

MOTION by Donald Miller, SECONDED by Robert Herndon to continue MSP#05/11/1-2 until the September 6, 2006 Lake County Zoning Board public hearing.

FOR: Morris, Blankenship, Gardner, Herndon, Miller, Metz

AGAINST: None

NOT PRESENT: Bryan

MOTION CARRIED: 6-0

CASE NO.: PH#61-06-3

AGENDA NO.: 5

**OWNER: Kerry Wrobel of Green Acres Fernery
and Citrus, Incorporated****APPLICANTS: Tom Zahn and Richard Paradis**

Stacy Allen, Senior Planner, presented the case and showed the aerial from the staff report on the monitor. She explained that since the staff report was written, she has learned of new information that has changed the staff recommendation to approval. She said she has had a conversation with Tom Zahn, applicant, and Peter Brandt of Green Consulting Group regarding her recommendation of denial based on the fact that it is inconsistent with the surrounding zoning and densities. She noted that the Mission Inn property is currently approved at two dwelling units per acre. Mr. Wrobel has also bought the property to the south and west of the site in question and plans on developing it at two dwelling units per acre. She pointed out on the aerial an area on CR 48 near Guava Street that was recently rezoned to R-2. It is a Kelly Homes development with a proposed density of 1.96 dwelling units per acre. Based on this, staff has changed its recommendation to approval.

In response to Larry Metz, Ms. Allen said this request is not consistent with the immediate area, but it is consistent with the surrounding area. She added that the area is growing.

Peter Brandt of Green Consulting Group said it is their understanding that Mission Inn has extended their Planned Unit Development (PUD) north so the subject property is now adjacent to Mission Inn. Mr. Morris confirmed with Ms. Allen that the PUD has not been extended to the north at this time. When Mr. Morris asked if Mission Inn is in the process of extending that PUD, Mr. Brandt said that was the information provided to them. However, regardless of whether or not this PUD is extended to the north, Mr. Brandt said the subject property is immediately adjacent to the utilities that Mission Inn is putting in to serve the R-2 property for Kelly Homes. Mr. Brandt submitted a map as Applicant Exhibit A.

When Mr. Metz asked about school impacts, Ms. Allen said the school concurrency language would be included in the ordinance. Mr. Metz stated that the school concurrency language drafted by the County Attorney's office has been included in PUD ordinances that have come before this Board. People have testified that they understood that to mean a contractual obligation to provide student stations before building permits are obtained and/or platting takes place. With PUD mechanisms, the County can impose conditions like that and enforce them as a contractual arrangement. When that language is put into a straight zoning ordinance, Mr. Metz said he is less comfortable about relying on that as a way of protecting the school capacity issue in the future. He spoke of a provision in Senate Bill 360 that says previously approved developments are not subject to the concurrency management system that will be created. Mr. Morris asked Mr. Metz if he was aware of a situation that has come to light since this concurrency language has been included in ordinances where the School Board has not been able to negotiate a settlement with a developer. Mr. Metz said it has not come up yet. He said they cannot get too far ahead of the concurrency pilot program. The School Board needs a policy to address that when it does come up. He felt the condition is enforceable under PUD zoning.

Melanie Marsh, Deputy County Attorney, said she did not know the school concurrency language was being put into straight zoning ordinances because straight zoning ordinances cannot be conditioned. She has been informed by Carol Stricklin, Director of the Growth Management Department, that Sanford Minkoff, County Attorney, has allowed that in the past although she was not sure why or under what grounds it has been permitted or whether it would be enforceable since that would be a condition, in her opinion, if they are not subject to concurrency as Mr. Metz stated for any development approved prior to school concurrency going into effect. Vice Chairman Morris asked Ms. Marsh to write a memorandum or an opinion from the County Attorney's office on that issue for the next Zoning Board public hearing. Ms. Marsh said she would do that. Mr. Metz agreed that this issue needs to be clarified. However, Scott Blankenship pointed out that such a memorandum would not help the Board with this case. The Board has an unknown condition on a straight zoning, and he was uncomfortable with that. For purposes of this Board meeting, Ms. Marsh said her legal opinion is that a straight rezoning cannot be conditioned.

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| CASE NO.: | PH#61-06-3 | AGENDA NO.: | 5 |
| OWNER: | Kerry Wrobel of Green Acres Fernery and Citrus, Incorporated | PAGE NO.: | 2 |
| APPLICANTS: | Tom Zahn and Richard Paradis | | |

Mr. Brandt added that the applicant is fully aware of Senate Bill 360 and the school concurrency issues that are currently pending in front of the County and the municipalities as well as the School Board. The applicant is perfectly willing to adhere to whatever the law of the land is at the time of the approval. Countywide, the deadline date for concurrency as a pilot program is June of 2006. Statewide, the deadline is June of 2008. Mr. Metz explained that the pilot program states that the pilot counties that are working on the school concurrency agreement must produce their work product drafts to the Department of Community Affairs (DCA) in June of 2008. It will be extended to mid-July. The results of their work product will then be distributed to the other counties that were not part of the pilot program. That does not mean that Lake County's agreement will be in effect when it is given to DCA. However, that agreement could be approved by the Board of County Commissioners (BCC), the School Board, and the 14 municipalities and agree to an earlier effective date than December of 2008. December of 2008 is when it must be in effect.

Mr. Brandt said this request is consistent with the Comprehensive Plan. He felt this decision comes down to the question of whether the Comprehensive Plan drives zoning or whether zoning drives the Comprehensive Plan. The point system in place speaks of a density that they are willing to adhere to.

Deborah Herold was present on behalf of the Friends of Yalaha in the Yalaha Community Club. They at neither for or against the rezoning at this time. However, they felt a continuance was in order for the following reasons. Although the current Comprehensive Plan has this area designated as Urban Expansion, the new Comprehensive Plan is unlikely with that designation. In fact, Yalaha is being considered to be one of the few communities in the County as a historical village under the new Comprehensive Plan. The intent of a historical village will be to preserve rural villages within the County that has some historical or cultural significance. She felt the consequences of this proposed development must be considered. She acknowledged that this property is adjacent to the Mission Inn property, but it is also adjacent to a very historical neighborhood. Although this project will probably be very nice, it will impact this community. The finalization of the Comprehensive Plan is imminent. There will be Land Development Regulations (LDRs) promulgated that will limit what kind of development will occur and help to preserve the historical nature of Yalaha. Therefore, she felt that at this time, the request is premature. She agreed with Mr. Metz's legal argument that it is too risky to allow a zoning ordinance to be used in a manner that potentially cannot be enforced. When Mr. Morris asked what kind of continuance Ms. Herold would suggest, Ms. Herold said they would like a continuance until the Comprehensive Plan is finalized and the historic village parameters are more clearly defined.

Mr. Brandt stated that the Kelly Homes site is in the middle of this area. It was granted R-2 zoning, the same as their request. This requested density would generate about six students. The high school has capacity at this time so that would leave four additional students. This is not a large site, only ten acres. He pointed out that there are differences of opinion as to whether the new future land use map is imminent or not. This map has been in progress for a very long time. They are not trying to do something that will not enhance Yalaha. This project will not be out of character for this area. When Robert Herndon asked the size of the structures, Mr. Brandt said he did not think they were that far along to have that information, but he could ask the property owner or applicants about that.

Mr. Blankenship asked Ms. Allen what would prevent the applicants from developing the property as a PUD with conditions. Ms. Allen said the applicants could withdraw this request and reapply as a PUD. Since staff recommended approval of this request, Mr. Blankenship felt staff must not have had any school issues. However, he had concerns about the total number of students that would be generated from all the subdivisions that have already been approved, even though individually each subdivision does not generate a large number of students. Mr. Metz agreed that cumulatively the de minimis impacts could cause a problem. He said the School System is trying to create a data system that will look at the bigger picture of all the previously approved but not yet built developments plus new ones being approved. As a School

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| OWNER: | Kerry Wrobel of Green Acres Fernery and Citrus, Incorporated | PAGE NO.: | 3 |
| APPLICANTS: | Tom Zahn and Richard Paradis | | |

Board representative to this Zoning Board, he said he could not support this request because of the school impacts.

Mr. Brandt said he did not know of many schools that actually have capacity. If school capacity is the litmus test that the County will be using, there will be few rezoning cases Countywide. Municipalities are not paying nearly that much attention to this issue. If this is to be the litmus test, the County is entering into a very difficult area. Mr. Herndon agreed that the cities are not at the same level as the County regarding this issue.

MOTION by Larry Metz, SECONDED by Donald Miller to deny the rezoning request to R-2 in PH#61-06-3.

FOR: Morris, Blankenship, Miller, Metz

AGAINST: Gardner, Herndon

NOT PRESENT: Bryan

MOTION CARRIED: 4-2

Vice Chairman Morris stated that this is a recommending body only. This case will be heard by the BCC on June 20, 2006.

Mr. Blankenship spoke about putting all requirements of a rezoning in the ordinance. Mr. Metz agreed that it is incumbent upon the Board members to include anything they feel is critical to their decision in the motion. If it is part of the motion, it will be in the minutes; and the BCC will be aware of it.

CASE NO.: CUP#06/6/4-3**AGENDA NO.: 8****OWNER: BA-Sher Development, Incorporated**
APPLICANT: Steven J. Richey, P.A.

Vice Chairman Morris stated that one speaker card had been submitted.

Stacy Allen, Senior Planner, presented the case and staff recommendation of approval. She showed the aerial from the staff report on the monitor and pointed out the three paddocks.

Steve Richey was present to represent the case. He said these 31 acres are part of a 317-acre subdivision that has been platted into 63 lots. In this case, they have taken out the common areas, the paddocks, and the fields, and asked for a Conditional Use Permit in order to have a commercial, professional operator for the common barns and facilities and allow residents of the subdivision to enjoy these amenities as well as allow residents in the area to have lessons and training. A veterinary office was added to provide facilities for veterinarians when they come on site to look at the animals. The subject property is totally within the subdivision although it will be open to others outside of the subdivision. The homeowners' association will not own this property nor maintain the liability. An independent commercial operator will own and operate the facilities within the subdivision. The 317 acres have riding trails running through them.

In response to Timothy Morris, Mr. Richey said the preliminary plat has been completed, the construction plans have been approved, and St. Johns River Water Management District is in the process of issuing a permit. The plat includes the three paddocks as paddocks and open space for this kind of use. This request would not generate any school children beyond what already exists.

Simone Tetreault, contiguous property owner, said her concern was the common border as far as a natural vegetation area of indigenous plant material. The specific variance being requested at this meeting is in a different corner of the entire property than where their concern lies.

MOTION by Donald Miller, SECONDED by Robert Herndon to recommend approval of CUP#06/6/4-3 for a full-service equestrian center.

FOR: Morris, Blankenship, Gardner, Herndon, Miller, Metz**AGAINST: None****NOT PRESENT: Bryan****MOTION CARRIED: 6-0**

CASE NO.: CUP#06/6/6-2

AGENDA NO.: 11

OWNER: George F. Saunders, Jr.
APPLICANTS: Mark and Jennifer Larson

Vice Chairman Morris stated that five speaker cards had been submitted for this case.

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of approval with conditions. He noted that this property is located in the Green Swamp Area of Critical State Concern. He showed a picture of the posting, aerial, conceptual drawings, and a map from the staff report on the monitor.

When Robert Herndon asked about the anti-dog barking system, Mr. Hartenstein said it is his understanding that it is a device that provides a limited electrical shock when the dog barks.

Larry Metz questioned the sound-deadening construction when the bays are open to the outside as shown on the conceptual drawing.

Mark Larson was present to represent the case. He explained that the conceptual drawings have been changed since the project has been downsized. There will be no outdoor runs. The all-block construction building will be totally enclosed. The anti-barking device is not an actual shock; it is an inaudible signal that quiets the dog and soothes it. All waste disposal will be taken care of by Mr. Larson and his wife. They will be living on the site. There will be no windows in the building. The actual size of the building will be 3,120 square feet.

Kathy Divine said she had some concerns about the size of the facility and the disposal of the waste. She asked if the sound device would be on the dogs when the dogs are walked twice a day. She also questioned the location of the kennel. Mr. Larson had said it would be on the east side of the property. She lives to the west of the property.

Ronald Teague, who lives directly west of the subject property, had many concerns. He asked why dog barking devices would be necessary if this is a soundproof building. He had a problem with the waste and infrastructure of the program. He bought his property ten or 12 years ago to stay away from infrastructure. He was concerned about setting a precedent if this becomes commercial property. Since this building has been reduced in size, he questioned if it will double in size next year. He asked if there is anything that would prevent that from happening. He asked whether this rezoning would affect his taxes. A private dirt road goes into this property. To get the lien holders to accept his mortgage, Mr. Teague said he had to get signatures from the other residents who have rights to this road proving that they all pay to maintain the road. With this becoming commercial property with more traffic, he questioned if the portion of the cost of maintenance would change.

Mr. Morris said that if the applicants make any changes to the building, they will need to come back before this Board to change the Conditional Use Permit (CUP). It would be another process.

In response to Mr. Morris, LaChea Parson, Assistant County Attorney, said this request is not changing the zoning of the property; it will still be zoned Agriculture with a kennel operation use. Mr. Morris said the disposal of waste would be addressed in the ordinance. There are requirements regarding how the waste can be disposed of. Mr. Teague was concerned about the barking coming over to his yard. As far as the private road, Mr. Morris said Mr. Teague would have to check the original agreement.

Myra Sue Harper, who owns ten acres east of the subject property, was concerned about the impacts on the Green Swamp and the noise. This is an agricultural, rural area, and she felt this request is more of a commercial business that does not belong in this area.

Virginia Leach, daughter of Oliver Hunt, said her father was concerned about the noise, impact on the Green Swamp, waste disposal, and the effect on the neighborhood.

CASE NO.: CUP#06/6/6-2**AGENDA NO.: 11****OWNER: George F. Saunders, Jr.**
APPLICANTS: Mark and Jennifer Larson**PAGE NO.: 2**

Mr. Larson said the building is soundproof. County staff is requiring the barking device. He had originally looked at a five-acre parcel nearby, but County staff felt that would place the dogs too close to neighbors. The Green Swamp borders the subject property on three sides. He will not be breeding dogs on the property. The building will contain indoor hotel-style rooms for dogs. There will be televisions and web cams in the building. This will be stress-free environment for dogs so there really are no barking problems. A survey has not yet been done on the property. Originally they planned to center the building, but it will depend on the setbacks. The current plan is to place the building directly behind the pole barn and centered according to the boundaries. This property is currently a blueberry farm, and he plans to keep that use. Regarding the private road, the owner may be more aware of any restrictions. He noted that there is an easement coming off Boys Ranch Road. Since this is the only kennel he has, he did not know what its impact on the Green Swamp would be.

James Gardner asked how the building would be ventilated. Mr. Larson explained that the building would have central air conditioning and heat. The building will also be sealed, which will help contain the odors, if there are any. This is an upper scale type of facility.

Regarding the walking of dogs, Mr. Larson said the dogs will be walked individually on the property; and a pooper scooper will be used to pick up the waste. The pooper scooper is a requirement of the Health Department.

In response to Scott Blankenship, Mr. Hartenstein said a CUP runs with the land unless the Board of County Commissioners (BCC) sets a time for it to come back. When Mr. Blankenship asked if the neighbors had any recourse if there were problems, Mr. Hartenstein said an annual inspection would be conducted by Code Enforcement to ensure that the kennel is meeting all the requirements of the CUP. There is also a clause in the ordinance stating that if complaints are received, more inspections could be held. If this kennel becomes a problem it could come back to this Board with recommendations of either corrections to the CUP or even potential revocation.

Mr. Herndon said this appears to be a state-of-the-art facility with the maximum affordable protection for the neighbors.

MOTION by Donald Miller, SECONDED by Robert Herndon to recommend approval of CUP#06/6/6-2 for an enclosed kennel operation.

FOR: Morris, Blankenship, Herndon, Miller**AGAINST: Gardner, Metz****NOT PRESENT: Bryan****MOTION CARRIED: 4-2**

Vice Chairman Morris reiterated that this Board is a recommending body only. The Board of County Commissioners will address this case on June 20, 2006 for a final vote.

CASE NO.: PH#63-06-4

AGENDA NO.: 13

OWNER: Church of Jesus Christ of Latter-Day Saints
APPLICANT: Gilad Livingstone

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of approval with conditions. He showed a picture of the posting and the aerial from the staff report on the monitor. He referred to the letter of concern received from the Lake County Water Authority. He pointed out that in the third paragraph, they were referencing the Land Development Regulations (LDRs) rather than the Comprehensive Plan. He read Items G, H, and I of the ordinance proposed for this case, noting that the owner must do an impact study on the natural reservation as part of the site plan approval process if this zoning is approved. He felt the concerns of the Comprehensive Plan have been addressed. He showed the conceptual drawing of the church from the staff report on the monitor.

Scott Blankenship confirmed with Mr. Hartenstein that the owner is required to retain all storm water on the site.

Mr. Hartenstein showed a map with the boundary lines of Hidden Waters Preserve from the staff report on the monitor. In response to Mr. Morris, Mr. Hartenstein said central sewer is not available. The owner will need to go through the Health Department for a septic tank permit. At this point, Mr. Hartenstein said he did not have an issue with that. The request will be reviewed by the Health Department relating to issues in Chapter 6 of the LDRs and read parts of that chapter into the record. He felt the Water Authority's concerns are covered by the regulations in place.

In response to James Gardner, Mr. Hartenstein said the County received comments from the City of Eustis specifically stating that sewer is not available in this area.

Mr. Blankenship was informed by Mr. Hartenstein that this CFD ordinance, if approved, would be for a church and associated accessory uses with specifics as proposed on their plan. Any other use of the site would require approval of an amendment by this Board and the Board of County Commissioners (BCC).

Gilad Livingstone, architectural project manager for this project, agreed that basically this requested ordinance would only allow a church. They have removed the pavilion from the request because it would be too close to the houses on the other side. Therefore, the only structure on the site would be the church and the dumpster pad. As far as the Water Authority's concerns, they have already done environmental assessments. They have ordered all the borings so they can find percolation levels if they have to connect to sewer. Sewer is about one-half mile away. If they have to connect to sewer, they will. They have spoken with the City of Eustis and can use their water, but they do not have it in writing yet. The City of Eustis also had concerns about water runoff into the environmental zone next to the property. This can be mitigated with berms or retention on the site.

Michael Perry, Executive Director of the Lake County Water Authority, read the letter from the Water Authority into the record. In response to Robert Herndon, Mr. Perry said the purpose of the letter was to ensure that the County is aware that the adjacent property to the subject property is a natural preserve. The Water Authority Board has no objections to the rezoning but would like the preserve to be taken into consideration when the final decision is made. In response to Mr. Blankenship, Mr. Hartenstein said their concern is addressed in the ordinance in Items G, H, and I and will be part of the review process if a site plan is submitted.

Chairman Morris reminded the Board that the applicant had stated that the pavilion would not be included in the request and asked that this be addressed in any motion that is brought before this Board.

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|-------------------|----------------------------------------------------|--------------------|-----------|
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| OWNER: | Church of Jesus Christ of Latter-Day Saints | PAGE NO.: | 2 |
| APPLICANT: | Gilad Livingstone | | |

MOTION by Scott Blankenship, SECONDED by Robert Herndon to recommend approval of CFD zoning with the deletion of the proposed pavilion in PH#63-06-4.

FOR: Morris, Blankenship, Gardner, Herndon, Miller, Metz

AGAINST: None

NOT PRESENT: Bryan

MOTION CARRIED: 6-0

CASE NO.:

CUP#06/6/1-5

AGENDA NO.:

16

OWNER/APPLICANT:

D. Ann Thompson

Chairman Morris stated that four speaker cards had been received.

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of denial. He showed the aerial and a picture of the posting from the staff report on the monitor. He noted that there are 27 dogs on the site rather than 28 as stated in the staff report. At the site inspection, there were 15 cats rather than 12 as stated in the staff report. On May 31, he met with an animal control officer and Ms. Thompson on the site and did a site inspection of the entire property. He showed pictures taken during that inspection on the monitor. He spoke of the privacy stockade fence along the entire northern border of the property. The cats are housed in an enclosed area that is screened in and well ventilated. She has provided access in and out of her house for her cats through a pet animal door. The cats do not run loose on the property. He noted the other animals on the property, an ostrich, birds, chickens, geese, ducks, pigeons, rabbits, goats, and two donkeys. These animals are not part of this request for a Conditional Use Permit (CUP). Animal Control has been to this property on more than one occasion, and they have stated that the animals are well taken care of. They are provided proper cages. The health of the animals is not endangered in any way. When he was there on May 31, Mr. Hartenstein said there was no odor. Ms. Thompson provides good care for her animals.

When Timothy Morris asked about the noise, Mr. Hartenstein said the dogs do bark, but they quiet down. They are out in the open.

Mr. Hartenstein stated that staff's concerns include the size of the property, this area turning residential, noise impacts, and effects on the adjacent property owners. He noted the residential properties in the area. Three letters of opposition have been received as well as six letters of support.

Ishir Mehta was present to represent the owner/applicant. Although there are 27 dogs and 15 cats on the property, all have been fixed. There is no intention to breed new animals or gather new animals. Their request is for a CUP that lasts for the life of these existing animals and would terminate after that. He said Ms. Thompson understands that she would be under some conditions and would be subject to revocation if those conditions are violated. This property is located in Paisley at the end of a sugar sand road. There is a six-foot privacy fence around three sides of the property. The back property is also fenced in. There are trees surrounding the property. When he visited the site, the only visible neighbors he saw were the VanGorders. He spoke of a letter from Ivy VanGorder in support of this request. She said there was no problem with the odor or the barking of the dogs. Ms. Thompson moved to this property about 14 years ago. There have always been animals on this property. Ms. Thompson has made it her life's work to help these abused animals. All the animals brought to her have either been abused or abandoned by their previous owners. He spoke to a veterinarian, Dr. Felix Pryor, who said Ms. Thompson takes very good care of her animals. He also spoke to the owner of a Purina food store, who said Ms. Thompson buys large quantities of food for her animals. He said that one of the concerns in the staff report was that this could be a nuisance to the properties surrounding it. He submitted a map as Applicant Exhibit A, noting that there is no one facing the property and no one living on the left side of the property. In the staff report, there was a concern about public facilities. Ms. Thompson has lived on this property for 14 years. If there was an issue of whether or not there are adequate police or water facilities, that would have been brought up years ago. The pictures presented earlier showed that there is no waste on the property and also showed the dogs lying there not barking even though there was a stranger present. Several neighbors were present to testify that there have never been any problems with noise or odor levels. If there was a problem with noise or odor, there would have been limitless complaints over the 14 years instead of only these three complaints. Ms. Thompson is willing to obtain any state or local licenses necessary and comply with any setback or inspection requirements. He submitted three letters of support from Ivy VanGorder, the Rutt family, and R. Witherly as Applicant Exhibit B. He also submitted as Applicant Exhibit C the original letters of support for five of the letters included in the backup material.

James Timothy Hickman said he lives on the northeast side of the subject property. There are less than

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four or five acres between his property and the subject property. He has never had a problem with odor in the 11 years he has lived there.

Daniel Wuest said he lives two houses from Mr. Hickman on the north side. He has not heard dogs barking or smelled any odor. He helps Ms. Thompson with the animals.

Randy Smith said he has lived across the street from Ms. Thompson for three years, and the dogs don't bother him and he was not aware of any odor. He also owns dogs himself.

Ann Thompson, property owner, said her No. 1 concern has always been her neighbors. The 8-1/2-acre property across from her property has just been sold. The new owners have contacted her and said they had no problems with the animals. Therefore, the letter of opposition regarding the property for sale has been addressed

Ms. Thompson said she has some new neighbors with children. These new children try to climb her fence and their dog puts his face under the gate. This disturbs her dogs and they bark. She will be working with these neighbors to control the situation. She will be retiring soon so she will be home more. She added that roaming dogs that cause her dogs to bark frequent the five wooded acres adjacent to her property. Cats that do not belong to her get on her fence and that causes her dogs to bark also. In her environment, the dogs are not habitual barkers. She does have a hound dog that she acquired within the past 1-1/2 years that is very vocal. She will be working with her veterinarian to tone down that dog. She noted that all of her perimeter neighbors except for the new neighbor have now submitted letters of support. She can get a letter from the new neighbors if it is needed for the public hearing. Ms. Thompson confirmed that there will be no more animals added other than her farm animals and dogs and cats within the allowable limit. She said she has only gotten one new cat in the past two years. Five of the cats are over 14 years of age.

When Donald Miller suggested a time limit on the CUP, Mr. Hartenstein said it would be difficult to set a limit on the animals' life spans. Code Enforcement will conduct an annual inspection. The ordinance can stipulate that no new cats or dogs would be allowed on the property. As the existing cats and dogs die, the number of animals will be reduced. Without a CUP, Ms. Thompson can have four adult cats or dogs over six months of age.

Agnes T. White said she moved to this property 20 years ago for peace and quiet. Ms. Thompson's dogs bark constantly. She does not have a problem with the cats as they don't make noise. The dogs are a nuisance. Sunday is the worst time.

Robert Herndon said there seems to be conflicting testimony about the barking. However, the majority support the request.

Larry. Metz commented that this is an unusual circumstance. Usually there are a lot of neighbors upset over something like this. In this case, there are many in support and one neighbor not in support. He did not feel this should be a CUP that runs with the land. It should only be for Ms. Thompson. If she should sell her property, the CUP should terminate at that time. The CUP should be limited to 27 dogs and 15 cats. In addition, a specific inventory of the animals should be prepared for use at the time of the annual inspection. In response to Mr. Metz, Mr. Hartenstein said Code Enforcement would address the noise issue. Regarding the problem dog, Mr. Metz suggested that they make a requirement that this particular dog must be kept indoors except when walking it. Mr. Herndon commented that this dog could end up being her personal pet once she gets down to her legal limit.

In response to Mr. Metz, Mr. Hartenstein said Code Enforcement would go out to the property annually, as directed. If complaints are received, Code Enforcement will investigate. If numerous complaints are

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received on a regular basis, it may go before the Code Enforcement Special Master where it could be recommended to come back before this Board and the BCC for revocation or some other option. They are avenues to address future problems.

MOTION by Larry Metz, SECONDED by Robert Herndon to recommend approval of CUP#06/6/1-5 for an animal rescue facility, subject to the following conditions:

1. The Conditional Use Permit shall be limited to the owner/applicant, D. Ann Thompson only. If the owner/applicant sells the property or no longer lives on the property, the Conditional Use Permit shall be revoked.
2. The existing 27 dogs and 15 cats shall be inventoried and listed in the Conditional Use Permit according to breed, name, age, and other identifying information. Code Enforcement shall use this inventory during the annual inspection.
3. The hound dog with noise problems shall be kept indoors within an enclosed structure such as a house except when being walked. If Code Enforcement receives undue noise complaints, the owner shall be required to implement a noise control program for the dog.

James Gardner said he would find it hard to support this motion as he did not feel it could be enforced. Three formal complaints have been received in six months. To do anything less than denial of this case would be the same as approval of an unlawful activity.

Mr. Metz said he thought most of the neighbors present said the dogs were not noisy.

Although he understood Ms. Thompson's viewpoint, Mr. Hartenstein said staff's major concern was the potential for this becoming a nuisance with the small size of the property.

AMENDMENT by Larry Metz, SECONDED by Robert Herndon to establish a one-year review by the Lake County Zoning Board and the Board of County Commissioners to determine compliance and to assess complaints.

FOR: Morris, Blankenship, Herndon, Miller, Metz

AGAINST: Gardner

NOT PRESENT: Bryan

MOTION CARRIED: 5-1
AS AMENDED

Adjournment

MOTION by Donald Miller, SECONDED by Robert Herndon to adjourn the public hearing at 11:30 a.m.

FOR: Morris, Blankenship, Gardner, Herndon, Miller, Metz

AGAINST: None

NOT PRESENT: Bryan

MOTION CARRIED: 6-0

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Timothy Morris
Vice Chairman